

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Sidney I. Schenkier	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	01 C 1198	DATE	3/12/2002
CASE TITLE	CRAWFORD vs. BARNHART		

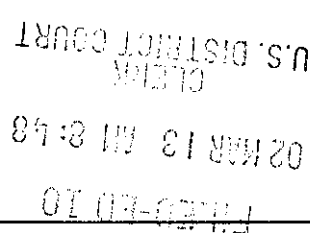
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

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## DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [ use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> General Rule 21 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter Memorandum Opinion and Order. For reasons stated in the attached Memorandum Opinion and Order the Court grants the Government's motion for remand (doc. #26). Plaintiff's motion for summary reversal and/or remand (doc. #23) is denied as moot. This case is remanded pursuant to sentence four of 42 U.S. C. § 405(g), for further administrative proceedings consistent with this Order.
(11)	<input type="checkbox"/>	[For further detail see order (on reverse side of/attached to) the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		number of notices	<b>Document Number</b>  <div style="font-size: 2em; font-family: cursive;">29</div>
<input type="checkbox"/>	No notices required.		MAR 14 2002	
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		date docketed	
<input checked="" type="checkbox"/>	Notified counsel by telephone.		cm docketing deputy initials	
<input type="checkbox"/>	Docketing to mail notices.		date mailed notice	
<input type="checkbox"/>	Mail AO 450 form.			
<input checked="" type="checkbox"/>	Copy to judge/magistrate judge.		mailing deputy initials	
	courtroom deputy's initials	Date/time received in central Clerk's Office		

## MAR 14 2002

42 U.S.C. § 405(g) (2001).

The plaintiff argues that she is entitled to outright reversal – even though she alternatively requested remand in her original motion – because the findings of fact in the record are “final” (Pl.’s Mem. at 2) and “complete” (Pl.’s Supp. Mem. at 2) and support only one conclusion: namely, that “the findings of the ALJ warrant reversal under the regulations and based on the testimony of the vocational expert (VE).” *Id.* The plaintiff resists remand at this point in the proceedings because it characterizes defendants’ request as “another bite of the apple” to “give the same ALJ an opportunity to write a better denial.” *Id.* The plaintiff also characterizes the request as one that seeks “an opportunity to void the supportive ME [Medical Expert] opinion” in the record – an opinion that cannot be elicited again from that particular ME, because he is now deceased. Instead, plaintiff asserts that the Government simply wants to “get a new ME opinion allowing the same ALJ to re-write his decision based largely on the testimony” of the new ME (Pl.’s Mem. at 2). The Government, conversely, argues that the ALJ’s opinion is “unclear” regarding several factual findings and thus should be remanded, rather than reversed, so that the Commissioner can clarify her position before the Court rules on the merits of plaintiff’s claim.

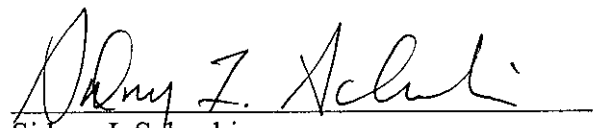
If outright reversal were warranted here, that would be a sufficient basis upon which to deny the Government’s motion for remand. But, the case law in this Circuit indicates that outright reversal of the Commissioner’s final decision is warranted only if “the record can yield but one supportable conclusion,” and there are no unresolved factual issues. *Campbell v. Shalala*, 988 F.2d 741, 744 (7<sup>th</sup> Cir. 1993). Here, outright reversal is not warranted because factual issues remain unresolved. The primary issue identified by the Government in its motion is whether the ALJ’s residual functional capacity assessment, which incorporated the specific limitation that plaintiff needs to “elevate her leg up to sixteen inches two-to-three times per day” (R. 12-18), is inconsistent

with a not disabled finding at Step 5 of the sequential analysis. The Court agrees that the ALJ's RFC assessment is inconsistent with other evidence in the record, such as the Vocational Expert's testimony – testimony that the ALJ did not address – that such a limitation would entirely preclude substantial gainful activity – even at the sedentary level. The Court also agrees that the plaintiff's condition of obesity should be addressed by the ALJ, as required by Social Security Ruling 00-3p.

The Court finds that the identified inconsistency in the record (and other omissions) presents questions for the ALJ that need clarification and perhaps modification on remand. Accordingly, the Court grants the Government's motion for remand (doc. # 26); as a result, plaintiff's motion for summary reversal and/or remand (doc. #23) is denied as moot. This case is therefore remanded pursuant to sentence four of 42 U.S.C. § 405(g), for further administrative proceedings consistent with this Order.

**Dated:** March 12, 2002

**Enter:**

A handwritten signature in black ink, appearing to read "Sidney I. Schenkier", written over a horizontal line.

Sidney I. Schenkier  
United States Magistrate Judge